

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

AMERICAN GENERAL FINANCIAL SERVICES, INC.

PLAINTIFF

VS.

CIVIL ACTION NO. 1:10cv44-SA-JAD

NETNET, LLC and JOHN DOES 1 THROUGH 10

DEFENDANTS

FINAL JUDGMENT BY DEFAULT

This Action came on for hearing on Plaintiff American General Financial Services, Inc.'s Motion for Default Judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure against Defendant NetNet, LLC. The Court, having reviewed the Motion and supporting Affidavit and having reviewed the Docket in this Action, finds that the Motion is well-taken and should be granted. In granting the Motion the Court finds specifically as follows:

1. This Court has subject matter jurisdiction over this Action;
2. This Court has in personam jurisdiction over Defendant NetNet, LLC;
3. Venue is proper in this Court;
4. Process and service of process was proper as to Defendant NetNet, LLC;
5. No persons or entities have been made parties to this Action as John Does 1 through 10, and thus this Final Judgment by Default disposes of all claims against all parties;
6. Defendant NetNet, LLC has failed to answer or otherwise defend within the time set out within the Federal Rules of Civil Procedure;
7. Defendant NetNet, LLC is not an infant, is not an incompetent person and is not on active duty with the United States Armed Forces;
8. Defendant NetNet, LLC has not made any appearance in this Action;
9. A proper entry of default against Defendant NetNet, LLC has been made by the Clerk of this Court; and

10. In order to enable this Court to enter judgment or to carry it into effect, appropriate evidence has been presented by Affidavit establishing that Plaintiff American General Financial Services, Inc. is entitled to reformation of the Quitclaim Deeds referenced in the Complaint so as to delete Tracts 3, 4 and 5 from each of said Quitclaim Deeds.
11. The correct legal description of “6116 Weir-Salem Road” as used in that certain Contract dated April 20, 2009, between American General Financial Services, Inc. and NetNet, LLC is:

Commencing at the Southwest corner of Section 9, Township 17 North, Range 10 East, Choctaw County, Mississippi, and run thence North along the West boundary line of said Section 9 a distance of 4,018.4 feet; run thence East to a point on the East boundary line of a gravel road there situated; thence run East in line with a wire fence a distance of 230 feet to a fence corner; thence run South along an old wire fence a distance of 409.78 feet to the POINT OF BEGINNING of the land herein described; from said point of beginning, run thence South 210 feet to a point; thence run West parallel with an old fence line 208.71 feet to a point of the East boundary line of the aforesaid public gravel road; thence run North along the East boundary line of the said public gravel road 210 feet to the Southwest corner of the William E. Black tract of land; thence run East 208.71 feet to the point of beginning of the land herein described containing 1.0 acre, more or less.

12. Tracts 3, 4 and 5 were included in the two Quitclaim Deeds referenced in the Complaint as the result of a mutual mistake on the part of American General Financial Services, Inc. and NetNet, LLC.

WHEREFORE, IT IS HEREBY FINALLY ORDERED, ADJUDGED and DECREED

that:

- (1) Final Judgment be, and hereby is, granted in favor of Plaintiff American General Financial Services, Inc. against Defendant NetNet, LLC;
- (2) The unrecorded Quitclaim Deed dated April 22, 2009, executed by American General Financial Services, Inc., as Grantor, in favor of NetNet, LLC, as Grantee, a copy of which is attached as Exhibit F to the Complaint filed in this Action, be, and hereby is, reformed *ab initio* to delete entirely therefrom Tracts 3, 4 and 5 in Choctaw County, Mississippi, described as follows, to-wit:

TRACT 3

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 9, TOWNSHIP 17 NORTH RANGE 10 EAST, AND RUN THENCE NORTH FOR 2890 FEET TO A POINT ON THE EAST LINE OF THE WEIR-SALEM PUBLIC ROAD, WHICH IS THE SOUTHWEST CORNER OF THIS PARCEL OF LAND AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE RUN EAST FOR 660 FEET; THENCE NORTH FOR 1,100.0 FEET; THENCE WEST FOR 451.3 FEET; THENCE SOUTH FOR 618.5 FEET; THENCE WEST FOR 208.71 FEET TO AN IRON PIN ON THE SAID EAST LINE OF THE WEIR-SALEM ROAD; THENCE SOUTH FOR 481 FEET ALONG THE SAID EAST LINE OF SAID ROAD TO THE POINT OF BEGINNING; ALL BEING A PART OF THE NW 1/4 OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, CHOCTAW COUNTY, MISSISSIPPI, AND CONTAINING 13.3 ACRES, LESS AND EXCEPT TWO ACRES, MORE OR LESS, CONVEYED TO RONALD BURDINE IN LAND DEED BOOK 139 AT PAGE 742.

TRACT 4

THE EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, CHOCTAW COUNTY, MISSISSIPPI, AND CONTAINING 20.0 ACRES.

TRACT 5

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, AND RUN THENCE NORTH ALONG THE WEST BOUNDARY LINE OF SAID SECTION 9 A DISTANCE OF 3,608.2 FEET; RUN THENCE EAST TO A POINT ON THE EAST BOUNDARY LINE OF A GRAVEL PUBLIC ROAD THERE SITUATED, WHICH POINT IS THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED AND CONVEYED; RUN THENCE EAST ALONG AN OLD WIRE FENCE A DISTANCE OF 208.71 FEET, AND THERE CORNER; RUN THENCE NORTH ALONG AN OLD WIRE FENCE A DISTANCE OF 208.71 FEET, AND THERE CORNER; RUN THENCE WEST A DISTANCE OF 208.71 FEET TO A POINT ON THE EAST BOUNDARY LINE OF THE AFORESAID GRAVEL PUBLIC ROAD THERE SITUATED, AND THERE CORNER; RUN THENCE SOUTH ALONG THE EAST

BOUNDARY LINE OF SAID GRAVEL PUBLIC ROAD A DISTANCE OF 208.71 FEET TO THE POINT OF BEGINNING; BEING A PART OF THE WEST 1/2 (W 1/2) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE NORTHWEST 1/4 (NW 1/4) OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, AND CONTAINING 1.0 ACRE, MORE OR LESS, TOGETHER WITH ALL BUILDINGS AND IMPROVEMENTS SITUATED THEREON.

- (3) The replacement Quitclaim Deed dated July 7, 2009, executed by American General Financial Services, Inc., as Grantor, in favor of NetNet, LLC, as Grantee, recorded in Land Deed Book 185, Pages 794-796 in the Office of the Chancery Clerk of Choctaw County, Mississippi, a copy of which is attached as Exhibit G to the Complaint filed in this Action, be, and hereby is, reformed *an initio* to delete entirely therefrom Tracts 3, 4 and 5 in Choctaw County, Mississippi, described as follows, to-wit:

TRACT 3

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 9, TOWNSHIP 17 NORTH RANGE 10 EAST, AND RUN THENCE NORTH FOR 2890 FEET TO A POINT ON THE EAST LINE OF THE WEIR-SALEM PUBLIC ROAD, WHICH IS THE SOUTHWEST CORNER OF THIS PARCEL OF LAND AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE RUN EAST FOR 660 FEET; THENCE NORTH FOR 1,100.0 FEET; THENCE WEST FOR 451.3 FEET; THENCE SOUTH FOR 618.5 FEET; THENCE WEST FOR 208.71 FEET TO AN IRON PIN ON THE SAID EAST LINE OF THE WEIR-SALEM ROAD; THENCE SOUTH FOR 481 FEET ALONG THE SAID EAST LINE OF SAID ROAD TO THE POINT OF BEGINNING; ALL BEING A PART OF THE NW 1/4 OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, CHOCTAW COUNTY, MISSISSIPPI, AND CONTAINING 13.3 ACRES, LESS AND EXCEPT TWO ACRES, MORE OR LESS, CONVEYED TO RONALD BURDINE IN LAND DEED BOOK 139 AT PAGE 742.

TRACT 4

THE EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, CHOCTAW COUNTY, MISSISSIPPI, AND CONTAINING 20.0 ACRES.

TRACT 5

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, AND RUN THENCE NORTH ALONG THE WEST BOUNDARY LINE OF SAID SECTION 9 A DISTANCE OF 3,608.2 FEET; RUN THENCE EAST TO A POINT ON THE EAST BOUNDARY LINE OF A GRAVEL PUBLIC ROAD THERE SITUATED, WHICH POINT IS THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED AND CONVEYED; RUN THENCE EAST ALONG AN OLD WIRE FENCE A DISTANCE OF 208.71 FEET, AND THERE CORNER; RUN THENCE NORTH ALONG AN OLD WIRE FENCE A DISTANCE OF 208.71 FEET, AND THERE CORNER; RUN THENCE WEST A DISTANCE OF 208.71 FEET TO A POINT ON THE EAST BOUNDARY LINE OF THE AFORESAID GRAVEL PUBLIC ROAD THERE SITUATED, AND THERE CORNER; RUN THENCE SOUTH ALONG THE EAST BOUNDARY LINE OF SAID GRAVEL PUBLIC ROAD A DISTANCE OF 208.71 FEET TO THE POINT OF BEGINNING; BEING A PART OF THE WEST 1/2 (W 1/2) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE NORTHWEST 1/4 (NW 1/4) OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, AND CONTAINING 1.0 ACRE, MORE OR LESS, TOGETHER WITH ALL BUILDINGS AND IMPROVEMENTS SITUATED THEREON.

- (4) The unrecorded Quitclaim Deed dated April 22, 2009, executed by American General Financial Services, Inc., as Grantor, in favor of NetNet, LLC, as Grantee, a copy of which is attached as Exhibit F to the Complaint filed in this Action, as reformed *ab initio* remises, releases and quitclaims only Tract 2 identified therein and described as follows, to-wit:

Commencing at the Southwest corner of Section 9, Township 17 North, Range 10 East, Choctaw County, Mississippi, and run thence North along the West boundary line of said Section 9 a distance of 4,018.4 feet; run thence East to a point on the East boundary line of a gravel road there situated; thence run East in line with a wire fence a distance of 230 feet to a fence corner; thence run South along an old wire fence a distance of 409.78 feet to the POINT OF BEGINNING of the land herein described; from said point of beginning, run thence South 210 feet to a point; thence run West parallel with an old fence line 208.71 feet to a point of the East boundary line of the aforesaid public gravel road; thence run North along the East boundary line of the said public gravel road 210 feet to the Southwest corner of the William E. Black tract of land; thence run East 208.71 feet to the point of

beginning of the land herein described containing 1.0 acre, more or less.

- (5) The replacement Quitclaim Deed dated July 7, 2009, executed by American General Financial Services, Inc., as Grantor, in favor of NetNet, LLC, as Grantee, recorded in Land Deed Book 185, Pages 794-796 in the Office of the Chancery Clerk of Choctaw County, Mississippi, a copy of which is attached as Exhibit G to the Complaint filed in this Action, as reformed *ab initio* remises, releases and quitclaims only Tract 2 identified therein and described as follows, to-wit:

Commencing at the Southwest corner of Section 9, Township 17 North, Range 10 East, Choctaw County, Mississippi, and run thence North along the West boundary line of said Section 9 a distance of 4,018.4 feet; run thence East to a point on the East boundary line of a gravel road there situated; thence run East in line with a wire fence a distance of 230 feet to a fence corner; thence run South along an old wire fence a distance of 409.78 feet to the POINT OF BEGINNING of the land herein described; from said point of beginning, run thence South 210 feet to a point; thence run West parallel with an old fence line 208.71 feet to a point of the East boundary line of the aforesaid public gravel road; thence run North along the East boundary line of the said public gravel road 210 feet to the Southwest corner of the William E. Black tract of land; thence run East 208.71 feet to the point of beginning of the land herein described containing 1.0 acre, more or less.

- (6) Plaintiff American General Financial Services, Inc. be, and hereby is, declared the owner, free and clear of any rights, titles, interests, claims or demands of NetNet, LLC and/or its assigns, of all of Tracts 3, 4 and 5 in Choctaw County, Mississippi, described as follows, to-wit:

TRACT 3

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 9, TOWNSHIP 17 NORTH RANGE 10 EAST, AND RUN THENCE NORTH FOR 2890 FEET TO A POINT ON THE EAST LINE OF THE WEIR-SALEM PUBLIC ROAD, WHICH IS THE SOUTHWEST CORNER OF THIS PARCEL OF LAND AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE RUN EAST FOR 660 FEET; THENCE NORTH FOR 1,100.0 FEET; THENCE WEST FOR 451.3 FEET; THENCE SOUTH FOR 618.5 FEET; THENCE WEST FOR 208.71 FEET TO AN IRON PIN ON THE SAID EAST LINE OF THE WEIR-SALEM ROAD; THENCE SOUTH FOR 481 FEET ALONG THE SAID EAST LINE OF SAID ROAD TO THE POINT OF BEGINNING; ALL BEING A PART OF THE NW 1/4 OF

SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, CHOCTAW COUNTY, MISSISSIPPI, AND CONTAINING 13.3 ACRES, LESS AND EXCEPT TWO ACRES, MORE OR LESS, CONVEYED TO RONALD BURDINE IN LAND DEED BOOK 139 AT PAGE 742.

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TRACT 5

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, AND RUN THENCE NORTH ALONG THE WEST BOUNDARY LINE OF SAID SECTION 9 A DISTANCE OF 3,608.2 FEET; RUN THENCE EAST TO A POINT ON THE EAST BOUNDARY LINE OF A GRAVEL PUBLIC ROAD THERE SITUATED, WHICH POINT IS THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED AND CONVEYED; RUN THENCE EAST ALONG AN OLD WIRE FENCE A DISTANCE OF 208.71 FEET, AND THERE CORNER; RUN THENCE NORTH ALONG AN OLD WIRE FENCE A DISTANCE OF 208.71 FEET, AND THERE CORNER; RUN THENCE WEST A DISTANCE OF 208.71 FEET TO A POINT ON THE EAST BOUNDARY LINE OF THE AFORESAID GRAVEL PUBLIC ROAD THERE SITUATED, AND THERE CORNER; RUN THENCE SOUTH ALONG THE EAST BOUNDARY LINE OF SAID GRAVEL PUBLIC ROAD A DISTANCE OF 208.71 FEET TO THE POINT OF BEGINNING; BEING A PART OF THE WEST 1/2 (W 1/2) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE NORTHWEST 1/4 (NW 1/4) OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 10 EAST, AND CONTAINING 1.0 ACRE, MORE OR LESS, TOGETHER WITH ALL BUILDINGS AND IMPROVEMENTS SITUATED THEREON.

SO ORDERED, ADJUDGED and DECREED, this the 16th day of June, 2010.

/s/ Sharion Aycock
U.S. DISTRICT COURT JUDGE